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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 21st May 2025

**S.R.O. No. 302/2025**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 20th March 2025 passed in the ID Case No. 16 of 2022 [under Section 2-A(2)] passed by the Presiding Officer, Labour Court, Bhubaneswar on the industrial dispute between Mr. Samir Jena, Proprietor of M/s Subham Associates, At Bypass New Colony, Mukunda Prasad, P.O. P.N. College, Dist. Khurda, 2. The Factory Manager, M/s Indo Nissin Food Pvt. Ltd., Plot No. A/2, Food Processing Park, Industrial Estate, Khurda-752057, 3. The Proprietor, M/s Zed King Security Services, B-142, HIG, BDA Duplex, At Baramunda, Bhubaneswar, Dist. Khurda, Odisha and Shri Sukanta Kumar Pradhan, S/o Sidheswar Pradhan, At Chhiam, P.S. Gadamanatri, P.S. Begunia, Dist. Khurda is hereby published as in the schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 16 of 2022

Dated the 20th March 2025

*Present :*

Smt. Meenakshee Priyadarsinee,  
Presiding Officer,  
Labour Court, Bhubaneswar.

*Between :*

- |  |                                   |
|--|-----------------------------------|
| <ol style="list-style-type: none"><li>1. Mr. Samir Jena,<br/>Proprietor of M/s Subham Associates,<br/>At Bypass New Colony,<br/>Mukunda Prasad, P.O. P.N. College,<br/>Dist. Khurda.</li><li>2. The Factory Manager,<br/>M/s Indo Nissin Food Pvt. Ltd.,<br/>Plot No. A/2, Food Processing Park,<br/>Industrial Estate, Khurda-752057.</li><li>3. The Proprietor,<br/>M/s Zed King Security Services,<br/>B-142, HIG, BDA Duplex,<br/>At Baramunda, Bhubaneswar,<br/>Dist. Khurda, Odisha.</li></ol> | <p>.. First Party—Managements</p> |
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And.

Shri Sukanta Kumar Pradhan,  
S/o Sidheswar Pradhan,  
At Chhiam, P.S. Gadamanatri,  
P.S. Begunia, Dist. Khurda.

. . . Second Party—Workman

*Appearances :*

None	. . . For the First Party Management.
Shri Sukanta Kumar Pradhan	. . . The Second Party himself

AWARD

This is an application under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') preferred by the second party challenging the action of the first party management No.1 in terminating his service by way of refusal of employment w.e.f. the 21st February 2021 as illegal and unjustified with a prayer for his reinstatement in service with full back wages, continuity of service and other consequential service benefits.

2. The case of the second party as depicted in his claim statement may succinctly be stated thus:

On being deployed by the management No.1 (outsourcing agency) he was engaged under the management No.2 in its packing section w.e.f. the 15th November 2014 and while continuing as such he was thrown out from his service by way of refusal of employment by the management No.1 w.e.f. the 21st February 2021. The claim statement of the second party speaks that during his incumbency he was extended the benefits of EPF and E.S.I. Schemes. According to the second party he has rendered service to the management Nos. 1 and 2 for more than 240 days in each calendar year of his employment under them. But, he has been terminated from his service by keeping aside the provisions stipulated in the ID Act. So, he had moved the labour machinery in relation to his termination from service for his intervention. Upon his complaint petition, notices came to be issued to the parties by the A.L.O., Khurda, but no settlement was arrived at between them as the contractor and the Principal Employer did not co-operate for the same and in the meantime more than 45 days have been elapsed from the date of filing of his complaint. So, the second party finding no other way out was constrained to knock the door of this forum directly as per the provisions enumerated under Section 2-A(2) of the Act with the aforesaid prayer.

3. As the managements during hearing of the case did not opt to participate, they were set *ex parte* vide order dated the 28th February 2025.

4. Before proceeding further it is trite to mention here that in order to claim any benefit under ID Act the claimant has to prove two ingredients at the first instance which are as follows:—

- (a) There exists relationship of employer-employee between the parties; and
- (b) The claimant has rendered continuous service under his employer for a period of 240 days, so as to seek protection of the provision of Section 25-F of the Act.

At the cost of repetition it may be stated here that the second party with regard to his present case has not only examined himself as W.W. No.1 but also placed reliance upon five numbers of documents under Exts.1 to 5 out of which Exts.1 and 2 are the photocopies of his

I Card and E-Pehchan Card and the same reveals that the management No.1 was his employer and his date of joining under it was on the 9th January 2015, but not the 15th November 2014 as alleged. So, there is no iota of doubt in the mind of his Court that the management No.1 was the immediate employer of the second party. Besides that the plea of the second party regarding his engagement under the management No. 2 on being sponsored by the management No.1 as an Outsourcing Agency, not being challenged stands undisputed. In this connection, it is apt to mention here that as the managements did not appear during hearing of the case they were set *ex parte*. So, it is well presumed that the management No. 2 is the principal employer of the second party. On the face above, it is clear that there exists employee-employers relationship between the second party and the management Nos. 1 & 2. Similarly, it is the consistent case of the second party throughout the case record that he has worked under the management No. 2 being provided by the management No.1 for the period from the 15th November 2014 to the 21st February 2021 and also completed more than 240 days of continuous work in each calendar year during the above period. Such contention of the second party remained unchallenged being not rebutted by the management Nos.1 and 2 by appearing themselves during hearing of the case so also by producing documentary evidence to that effect. The management being remained *ex parte* nothing adverse is available before this Court to disbelieve the version of the second party. So, in absence of opposition, if any from the side of the managements this Court under compulsion has to accept the assertion of the second party that his engagement under the management No. 2 by the management No. 1 is continuation one. Accordingly, it is held that the second party is coming within the purview of Section 25-F of the Act and is protected thereunder as well. But, no document is available on the case record to show that while terminating the services of the second party by way of refusal of employment by the management No. 1 necessary compliance of the provisions of ID Act was adhered by it.

Considering the unchallenged testimony of the second party together with the documentary evidence, as discussed above, the conclusion is inevitable that in spite of rendering continuous service of more than 240 days under the first party management Nos. 1 and 2 the services of the second party have been terminated from services by way of refusal of employment in clear contravention of the provisions of the Industrial Disputes Act, 1947. In the fitness of things, the action of the management No. 1 in terminating the second party from his service by way of refusal is held to be neither legal nor justified.

In view of the finding arrived above, the next question which falls for determination is as to what relief the second party is entitled to. In the instant dispute, the second party admitted to have been engaged under the management No. 2 as an outsourcing employee. In the context, it is profitable to refer to a decision of our own Hon'ble High Court in the case of General Secretary, North Orissa Workers' Union Vrs. Superintendent, Prospecting Division and another [2019 (160) FLR 947], wherein their Lordships by referring to a *catena* of decisions of the Hon'ble Apex Court held that in a case of daily wage monetary compensation is the appropriate relief instead of reinstatement. Similarly, the Hon'ble Apex Court in the case of Jagbir Singh Vrs. Haryana State Agriculture Marketing Board and another, in Civil Appeal No. 4334 of 2009 (Arising out of SLP No. 987/2009), reported in 2009(4) LLJ 336(SC) held that "if the termination of an employee is found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. But compensation instead of reinstatement has been held to meet the ends of justice in appropriate cases".

Taking into consideration the principles laid down by the Hon'ble Courts in the above cases, the status of the second party, his engagement period and age, this Court feels it proper to award a monetary compensation of Rs. 1,00,000 (Rupees one lakh) in favour of the second party instead of the relief of his reinstatement and back wages. In view of sub-section (4) of Section 21 of the Contract Labour (Regulation and Abolition) Act, 1970 the management No. 2 being the principal employer of the second party is directed to pay the aforesaid amount to him (second party) within a period of one month of date of publication of the award or else to pay interest @ 6% per annum on the said amount till it is actually disbursed to him.

The application is disposed of accordingly.

Dictated and corrected by me.

MEENAKSHEE PRIYADARSINEE

20-03-2025

Presiding Officer

Labour Court, Bhubaneswar

MEENAKSHEE PRIYADARSINEE

20-03-2025

Presiding Officer

Labour Court, Bhubaneswar

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[No. 4950—LESI-IR-ID-0028/2025-LESI]

By order of the Governor

MADHUMITA NAYAK

Special Secretary to Government